

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2010-1007-02EE
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For use by Office of Administrative Law (OAL) only

2010 OCT -7 AM 10:07

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
Food and AgricultureAGENCY FILE NUMBER (if any)
PH10091**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) European Grapevine Moth Interior Quarantine	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0506-06E & 2010-0520-02E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 3437(b)
	REPEAL
TITLE(S) 3	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)**5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)**

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Susan McCarthy	TELEPHONE NUMBER (916) 654-1017	FAX NUMBER (Optional) (916) 654-1018	E-MAIL ADDRESS (Optional) smccarthy@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Nathan Dechoretz, Deputy Secretary for Administration and Finance

In Title 3, Division 4, Chapter 3, amend Section 3437 to read:

Section 3437. European Grapevine Moth Interior Quarantine.

A quarantine is established against the following pest, its hosts and possible carriers.

(a) Pest. European Grapevine Moth (*Lobesia botrana*).

(b) Area Under Quarantine: ~~In Napa, Solano and Sonoma counties. Beginning at the intersection of State Hwy 128 and Ida Clayton Rd; then, starting northeasterly along Ida Clayton Rd to its intersection with 38.644859 latitude and 122.668705 longitude; then, easterly along an imaginary line to its intersection with State Hwy 29 at 38.643764 latitude and 122.591332 longitude; then, southeasterly along an imaginary line to its intersection with Bell Canyon Creek at 38.595855 latitude and 122.486006 longitude; then, starting southerly along Bell Canyon Creek to its intersection with 38.571519 latitude and 122.467815 longitude; then, easterly along an imaginary line to its intersection with an unnamed road at 38.571350 latitude and 122.463443 longitude; then starting northeasterly along the unnamed road to its intersection with Liparita Av; then, southeasterly along Liparita Av to its intersection with Brookside Dr; then, starting southeasterly along Brookside Dr to its intersection with Brookside Park; then, southeasterly along Brookside Park to its intersection with Howell Mountain Rd; then, starting southerly along Howell Mountain Rd to its intersection with Falls Rd; then, starting southerly along Falls Rd to its intersection with 38.541778 latitude and 122.430000 longitude; then, northeasterly along an imaginary line to its intersection with Chiles Pope Valley Rd at 38.546406 latitude and 122.352115 longitude; then, starting southeasterly along Chiles Pope Valley Rd to its intersection with 38.528198 latitude and 122.342824 longitude; then, southeasterly along an imaginary line to the beginning of Clear Creek; then, southwesterly along an imaginary line to its intersection with Sage Canyon Creek at 38.492335 latitude and 122.337847 longitude; then, starting southeasterly along Sage Canyon Creek to its intersection with Fir Canyon Creek; then, starting southeasterly along Fir Canyon Creek to its southeastern most end; then, southwesterly along an imaginary line to an unnamed road at 38.4466822 latitude and 122.2739098 longitude; then southwesterly along the unnamed road to its intersection with Soda Canyon Rd at 38.444568 latitude and 122.280224 longitude; then southerly~~

~~along an imaginary line to its intersection with an unnamed road at 38.437114 latitude and 122.280556 longitude; then, easterly along the unnamed road to its intersection with an unnamed road at 38.437032 latitude and 122.277505 longitude; then, southerly along the unnamed road to its intersection with Old Foss Valley Rd; then, southeasterly along Old Foss Valley Rd to its intersection with an unnamed road at 38.431692 latitude and 122.276170 longitude; then, starting southwesterly along the unnamed road to its southernmost end; then, southerly along an imaginary line to its intersection with 38.418631 latitude and 122.277193 longitude; then, southeasterly along an imaginary line to its intersection with an unnamed road at 38.391049 latitude and 122.255962 longitude; then, starting easterly along the unnamed road to its intersection with Atlas Peak Rd; then, starting southerly along Atlas Peak Rd to its intersection with 38.376513 latitude and 122.241913 longitude; then easterly along an imaginary line to its intersection with Monticello Rd at 38.374967 latitude and 122.203503 longitude; then starting southerly along Monticello Rd to its intersection with 38.366127 latitude and 122.201239 longitude; then southeasterly along an imaginary line to its intersection with 38.337827 latitude and 122.170352 longitude; then, southerly along an imaginary line to its intersection with Wild Horse Valley Rd and the Napa County boundary line; then, southwesterly along an imaginary line to its intersection with the Napa County boundary line at 38.2775149 latitude and 122.1906820 longitude; then, starting southwesterly along the Napa County boundary line to its intersection with 38.244816 latitude and 122.209582 longitude; then, starting southerly along an imaginary line to its intersection with the northernmost point of Fagan Crk; then, southerly along Fagan Crk to its intersection with Kirkland Ranch Rd; then, westerly along Kirkland Ranch Rd to its intersection with Hwy 12; then, westerly along Hwy 12 to its intersection with S. Kelly Rd; then, southerly along S. Kelly Rd to its intersection with Hwy 29; then, southerly along Hwy 29 to its intersection with Green Island Rd; then, starting westerly along Green Island Rd to its intersection with 38.197105 latitude and 122.290149 longitude; then southwesterly along an imaginary line to its intersection with Napa Slough at 38.188048 latitude and 122.326858 longitude; then starting northerly along the Napa Slough to its intersection with the Napa County boundary Line; then starting northerly along the Napa County boundary line to its intersection with Second Napa Slough; then,~~

~~starting southwesterly along Second Napa Slough to its intersection with Skaggs Island Rd; then, starting northeasterly along Skaggs Island Rd to its intersection with Ramal Rd; then, starting westerly along Ramal Rd to its intersection with Poehlman Rd; then, starting northerly along Poehlman Rd to its intersection with Haire Ln; then, starting northerly along Haire Ln to its intersection with Hwy 121; then, southwesterly along Hwy 121 to its intersection with the Napa County boundary line; then, starting northwesterly along the Napa County boundary line to its intersection with 38.259881 latitude and 122.388849 longitude; then northeasterly along an imaginary line to its intersection with Henry Rd at 38.277273 latitude and 122.356265 longitude; then, starting northwesterly along Henry Rd to its intersection with 38.284534 latitude and 122.363262 longitude; then northeasterly along an imaginary line to its intersection with Buhman Av at 38.290463 latitude and 122.342708 longitude; then, starting northerly along Buhman Av to its intersection with Browns Valley Rd; then, northwesterly along Browns Valley Rd to its intersection with Partrick Rd; then, starting northwesterly along Partrick Rd to its intersection with Redwood Rd; then, starting northerly along Redwood Rd to its intersection with the Napa County boundary line; then, starting northwesterly along the Napa County boundary line to its intersection with 38.358701 latitude and 122.444118 longitude; then starting westerly along an imaginary line to its intersection with an unnamed road at 38.358843 latitude and 122.449271 longitude; then, starting northwesterly along the unnamed road to its intersection with the Napa County boundary line; then, starting northwesterly along the Napa County boundary line to its intersection with Lokoya Rd at 38.368632 latitude and 122.457436 longitude; then, starting northwesterly along Lokoya Rd to its intersection with Cavedale Rd; then, starting northeasterly along Cavedale Rd to its intersection with Trinity Rd; then, starting northeasterly along Trinity Rd to its intersection with Dry Creek Rd; then, starting northeasterly along Dry Creek Rd to its intersection with Wall Rd; then, starting northwesterly along Wall Rd to its intersection with the Napa County boundary line; then, starting southeasterly along the Napa County boundary line to its intersection with 38.434366 latitude and 122.486552 longitude; then northwesterly along an imaginary line to its intersection with the Napa County boundary line at 38.455918 latitude and 122.501550 longitude; then starting northwesterly along the Napa County boundary line~~

~~to its intersection with Timberline Dr and Langtry Rd; then, starting northeasterly along Langtry Rd to its intersection with the Napa County boundary line at 38.503478 latitude and 122.539609 longitude; then, starting northwesterly along the Napa County boundary line to its intersection with 38.511623 latitude and 122.548806 longitude; then, northwesterly along an imaginary line to its intersection with Pinedale Rd; then, starting northerly along Pinedale Rd to its northernmost end; then, northerly along an imaginary line to its intersection with the Napa County Boundary Line at 38.528942 latitude and 122.568681 longitude; then, starting northwesterly along the Napa County boundary line to its intersection with Diamond Mountain Rd at 38.542696 latitude and 122.577416 longitude; then, starting northeasterly along Diamond Mountain Rd to its intersection with Heidi Ranch Rd; then, southwesterly along an imaginary line to its intersection with Fetcher Rd and Gates Rd; then, starting northwesterly along Gates Rd to its intersection with Calistoga Rd; then, starting northeasterly along Calistoga Rd to its intersection with Porter Creek Rd; then, starting northwesterly along Porter Creek Rd to its intersection with Franz Valley Rd; then, starting northeasterly along Franz Valley Rd to its intersection with State Hwy 128; then, northwesterly along State Hwy 128 to the point of the beginning.~~

(1) In Fresno County. Beginning at the intersection of N Clovis Ave and E Olive Ave; then, easterly along E Olive Ave to its intersection with N Fancher Ave; then, northerly along N Fancher Ave to its intersection with Mill Ditch; then, starting easterly along Mill Ditch to its intersection with the Fresno Canal; then, starting northeasterly along the Fresno Canal to its intersection with N McCall Ave; then, southerly along N McCall Ave to its intersection with E Belmont Ave; then, easterly along E Belmont Ave to its intersection with N Bethel Ave; then, southerly along N Bethel Ave to its intersection with E Kings Canyon Rd; then, easterly along E Kings Canyon Rd to its intersection with S Academy Ave; then, southerly along S Academy Ave until it becomes Academy Ave; then, southerly along Academy Ave until it becomes M St; then, starting southwesterly along M St until it becomes Academy Ave; then, starting southerly along Academy Ave until it becomes S Academy Ave; then, southerly along S Academy Ave to its intersection with E Lincoln Ave; then, westerly along E Lincoln Ave to its intersection with S Greenwood Ave; then, southerly along S Greenwood Ave to its intersection with

E Adams Ave; then, westerly along E Adams Ave to its intersection with Bethel Ave; then, southerly along Bethel Ave to its intersection with E South Ave; then, westerly along E South Ave to its intersection with S Indianola Ave; then, southerly along S Indianola Ave to its intersection with E Manning Ave; then, westerly along E Manning Ave to its intersection with S Clovis Ave; then, northerly along S Clovis Ave to its intersection with E Parlier Ave; then, westerly along E Parlier Ave to its intersection with S Kenneth Ave; then, northerly along S Kenneth Ave to its intersection with E South Ave; then, westerly along E South Ave to its intersection with S Peach Ave; then, northerly along S Peach Ave to its intersection with E Adams Ave; then, westerly along E Adams Ave to its intersection with S Chestnut Ave; then, northerly along S Chestnut Ave to its intersection with E American Ave; then, westerly along E American Ave to its intersection with S Maple Ave; then, northerly along S Maple Ave to its intersection with E Central Ave; then, easterly along E Central Ave to its intersection with S Recreation Ave; then, northerly along S Recreation Ave to its intersection with S Bagley Ave; then, starting westerly along S Bagley Ave to its intersection with S Maple Ave; then, northerly along S Maple Ave to its intersection with Golden State Blvd; then, northwesterly along Golden State Blvd to its intersection with E North Ave; then, easterly along E North Ave to its intersection with S Maple Ave; then, northerly along S Maple Ave to its intersection with E Jensen Ave; then, easterly along E Jensen Ave to its intersection with S Chestnut Ave; then, northerly along S Chestnut Ave to its intersection with E Kings Canyon Rd; then, easterly along E Kings Canyon Rd to its intersection with S Peach Ave; then, northerly along S Peach Ave to its intersection with E Tulare Ave; then, easterly along E Tulare Ave to its intersection with N Minnewawa Ave; then, northerly along N Minnewawa Ave to its intersection with E Belmont Ave; then, easterly along E Belmont Ave to its intersection with N Clovis Ave; then, northerly along N Clovis Ave to the point of the beginning.

(2) In Mendocino County. Beginning at the intersection of W School Way and E School Way; then, starting easterly along E School Way to its intersection with East Rd; then, southerly along East Rd to its intersection with Road B; then, starting easterly along Road B to its intersection with Black Bart Trl; then, starting easterly along Black Bart Trl to its intersection with Kirk Dr; then, starting northeasterly along Kirk Dr to its

southwestern most point; then, easterly along an imaginary line to the intersection of Elledge Ranch Rd and State Hwy 20; then, starting northeasterly along State Hwy 20 to its intersection with the Mendocino County line; then, starting southerly along the Mendocino County line to its intersection with an unnamed road at 39.125473 latitude and -123.087225 longitude; then, starting westerly along the unnamed road to its intersection with Mill Creek Rd; then, southwesterly along an imaginary line to its intersection with Twining Rd and an unnamed road at 39.116659 latitude and -123.145359 longitude; then, starting southwesterly along the unnamed road to its intersection with Eastside Rd; then, starting southeasterly along Eastside Rd to its intersection with Morrison Creek; then, southwesterly along Morrison Creek to its intersection with the Russian River; then, starting northwesterly along the Russian River to its intersection with Robinson Creek; then, starting westerly along Robinson Creek to its intersection with Goat Rock Rd; then, northwesterly along Goat Rock Rd to its intersection with State Hwy 253; then, starting southwesterly along State Hwy 253 to its intersection with Robinson Creek Rd; then, starting westerly along Robinson Creek Rd to its intersection with an unnamed road at 39.092138 latitude and -123.265482 longitude; then, starting westerly along the unnamed road to its intersection with Robinson Creek Rd and an unnamed road at 39.097088 latitude and -123.281592 longitude; then, starting southwesterly along the unnamed road to its intersection with Lower Gap Rd; then, starting northwesterly along Lower Gap Rd to its intersection with an unnamed road at 39.163643 latitude and -123.342267 longitude; then, starting northeasterly along the unnamed road to its intersection with Masonite Industrial Rd; then, starting northwesterly along Masonite Industrial Rd to its intersection with Running Springs Ranch Rd; then, starting westerly along Running Springs Ranch Rd to its intersection with Orr Springs Rd; then, starting easterly along Orr Springs Rd to its intersection with Main Ranch Rd; then, starting northwesterly along Main Ranch Rd to its intersection with the beginning of an unnamed road at the intersection of Main Ranch Rd and Find Yer Way; then, starting northeasterly along the unnamed road to its intersection with the southwestern most point of Smith Ln; then, northeasterly along Smith Ln to its intersection with Bell Arbes Dr; then, easterly along Bell Arbes Dr to its intersection with Uva Dr; then, starting

northeasterly along Uva Dr to its intersection with W School Way; then, northeasterly along W School Way to the point of the beginning.

(3) In Napa, Solano and Sonoma counties. Beginning at the intersection of US Hwy 101 and Dry Creek Rd; then, easterly along Dry Creek Rd to its intersection with Healdsburg Ave; then, starting northerly along Healdsburg Ave to its intersection with Passalacqua Rd; then, starting easterly along Passalacqua Rd to its intersection with Foppiano Rd; then, starting southeasterly along Foppiano Rd to its intersection with Deichmann Rd; then, starting northeasterly along Deichmann Rd to its end; then, northeasterly along an imaginary line to its intersection with 38.637175 latitude and -122.826652 longitude; then, southeasterly along the imaginary line to its intersection with the westernmost end of Cook Way; then, starting northerly along Cook Way to its intersection with Chalk Hill Rd; then, starting northerly along Chalk Hill Rd to its intersection with State Hwy 128; then, starting southeasterly along State Hwy 128 to its intersection with Bechaud Rd; then, northeasterly along Bechaud Rd to its northeastern most end; then, northeasterly along an imaginary line to its intersection with the westernmost beginning of Ida Clayton Rd; then, starting easterly along Ida Clayton Rd to its intersection with 38.675388 latitude and -122.656858 longitude; then, southeasterly along an imaginary line to its intersection with Kellogg Creek and the Robert Louis Stevenson State Park boundary line; then, starting northerly along the Robert Louis Stevenson State Park boundary line to its intersection with the Sonoma County boundary line; then, starting southeasterly along the Sonoma County boundary line to its intersection with the Napa County boundary line; then, northeasterly along the Napa County boundary line to its intersection with State Hwy 29; then, starting southerly along State Hwy 29 to its intersection with Livermore Rd; then, southeasterly along an imaginary line to its intersection with the end of Aetna Springs Rd; then, southeasterly along an imaginary line to the westernmost beginning of Summit Lake Dr; then, starting southeasterly along Summit Lake Dr to its intersection with 38.609410 latitude and -122.475560 longitude; then, southeasterly along an imaginary line to its intersection with Ink Grade Dr at 38.602280 latitude and -122.452271 longitude; then, starting southeasterly along Ink Grade Dr to its intersection with Howell Mountain Rd; then, starting northwesterly along Howell Mountain Rd to its intersection with Chiles Pope

Valley Rd; then, starting northeasterly along Chiles Pope Valley Rd to its intersection with Maxwell Creek; then, starting northerly along Maxwell Creek to its intersection with Pope Creek; then, starting southeasterly along Pope Creek to its intersection with the Lake Berryessa Recreation Area boundary line; then, starting southerly along the Lake Berryessa Recreation Area boundary line to its intersection with Steele Canyon Rd at 38.491657 latitude and -122.196591 longitude; then, starting southeasterly along Steele Canyon Rd to its intersection with Lakeshore Dr; then, southwesterly along an imaginary line to its intersection with Capell Valley Rd and 38.455066 latitude and -122.209986 longitude; then, starting southeasterly along Capell Valley Rd to its intersection with Monticello Rd; then, starting southwesterly along Monticello Rd to its intersection with Circle Oaks Dr; then, southeasterly along an imaginary line to its intersection with Blue Ridge Rd and Gates Canyon Rd; then, starting easterly along Gates Canyon Rd to its intersection with Pleasants Valley Rd; then starting southeasterly along Pleasants Valley Rd to its intersection with Foothill Dr; then, starting southeasterly along Foothill Dr to its intersection with Alamo Dr; then, starting southeasterly along Alamo Dr to its intersection with Peabody Rd; then, starting southerly along Peabody Rd to its intersection with Air Base Pkwy; then, starting westerly along Air Base Pkwy to its intersection with Walters Rd; then, southerly along Walters Rd to its intersection with E Tabor Ave; then, easterly along E Tabor Ave to its intersection with Sunset Ave; then, starting southerly along Sunset Ave to its intersection with Grizzly Island Rd; then, starting southerly along Grizzly Island Rd to its intersection with Hill Slough, then, starting northwesterly along Hill Slough to its intersection with Suisun Slough; then, starting southerly along Suisun Slough to Grizzly Bay; then, starting southerly along the western shore of Suisun Bay to the Carquinez Strait; then, starting southwesterly along the Carquinez Strait to San Pablo Bay; then, starting northerly along the shore of San Pablo Bay to the Petaluma River; then, starting northwesterly along the Petaluma River to its intersection with Adobe Creek; then, starting easterly along Adobe Creek to its northernmost end; then, northeasterly along an imaginary line to the southwestern most point of the Glen Ellen City boundary line; then, northwesterly along an imaginary line to the southernmost end of South Fork Matanzas Creek; then, starting southwesterly along South Fork Matanzas Creek to its intersection with Sonoma Mountain Rd; then, starting

westerly along Sonoma Mountain Rd to its intersection with Pressley Rd; then, northwesterly along an imaginary line to its intersection with the southernmost end of Hidden Oaks Rd; then, northwesterly along an imaginary line to its intersection with the southernmost end of Hidden Acres Rd; then, northerly along Hidden Acres Rd to its intersection with Hidden Springs Rd; then, starting northwesterly along Hidden Springs Rd to its intersection with Peracca Rd; then, westerly along Peracca Rd to its intersection with Grange Rd; then, starting northerly along Grange Rd to its intersection with Matanzas Creek; then, starting westerly along Matanzas Creek to its intersection with Bennett Valley Rd; then, starting northwesterly along Bennett Valley Rd to its intersection with Yulupa Ave; then, starting northwesterly along Yulupa Ave to its intersection with Bethards Dr; then, starting northeasterly along Bethards Dr to its intersection with Summerfield Rd; then, starting northerly along Summerfield Rd to its intersection with Montgomery Dr; then, northeasterly along Montgomery Dr to its intersection with Mission Blvd; then, starting northwesterly along Mission Blvd to its intersection with Montecito Blvd; then, starting southwesterly along Montecito Blvd to its intersection with Fountain Grove Pkwy; then, starting northwesterly along Fountain Grove Pkwy to its intersection with Industrial Dr; then, starting westerly along Industrial Dr to its intersection with Cleveland Ave; then, starting southeasterly along Cleveland Ave to its intersection with Piner Rd; then, starting westerly along Piner Rd to its intersection with Olivet Rd; then, northerly along Olivet Rd to its intersection with W Olivet Rd; then, westerly along W Olivet Rd to its intersection with Oakwild Ln; then, northerly along Oakwild Ln to its intersection with Denner Ranch Rd; then, westerly along Denner Ranch Rd to its intersection with Denner Rd; then, starting northerly along Denner Rd to its intersection with River Rd; then, starting westerly along River Rd to its intersection with McPeak Rd; then, starting northwesterly along McPeak Rd to its intersection with Sunnyside Dr; then, northeasterly along an imaginary line to its intersection with Mount Jackson Resort Rd at 38.538271 latitude and -122.941874 longitude; then, starting southwesterly along Mount Jackson Resort Rd to its intersection with Sweetwater Springs Rd; then, starting northwesterly along Sweetwater Springs Rd to its intersection with McCray Ridge Rd; then, northeasterly along an imaginary line to its intersection with Cloud 8 Rd and Palmer Creek Rd; then, starting northeasterly along

Palmer Creek Rd to its intersection with Mill Creek Rd; then, starting northeasterly along Mill Creek Rd to its intersection with Puccioni Rd; then, starting northwesterly along Puccioni Rd to its intersection with 38.600325 latitude and -122.935946 longitude; then, northeasterly along an imaginary line to its intersection with Wallace Creek Rd and Chicken Ridge Rd; then, starting northeasterly along Chicken Ridge Rd to its intersection with Big Ridge Rd; then, northwesterly along an imaginary line to its intersection with an unnamed creek at 38.621612 latitude and -122.919456 longitude; then, starting southeasterly along the unnamed creek to its intersection with 38.620320 latitude and -122.906202 longitude; then, northeasterly along an imaginary line to its intersection with W Dry Creek Rd at 38.624313 latitude and -122.897724 longitude; then, northeasterly along an imaginary line to its intersection with Dry Creek at 38.625808 latitude and -122.895523 longitude; then, southeasterly along Dry Creek to the southwestern most end of Provence Ln; then, northeasterly along Provence Ln to its intersection with Dry Creek Rd; then, southeasterly along Dry Creek Rd to its intersection with Pozzan Rd; then, northerly along Pozzan Rd to its intersection with 38.629385 latitude and -122.883128 longitude; then, easterly along an imaginary line to its intersection with US Hwy 101 at 38.629438 latitude and -122.878028 longitude; then, southerly along US Hwy 101 to the point of the beginning.

(c) [no change]

(d) [no change]

Note: Authority: Sections 407 and 5322, Food and Agricultural Code

Reference: Sections 407, 5322, 5761, 5762 and 5763, Food and Agricultural Code

05/06/10

In Title 3, Division 4, Chapter 3, amend Section 3437 to read:

Section 3437. European Grapevine Moth Interior Quarantine.

A quarantine is established against the following pest, its hosts and possible carriers.

(a) Pest. European Grapevine Moth (*Lobesia botrana*).

(b) Area Under Quarantine.

(1) In Fresno County. Continued

(2) In Mendocino County. Beginning at the intersection of W School Way and E School Way; then, starting easterly along E School Way to its intersection with East Rd; then, southerly along East Rd to its intersection with Road B; then, starting easterly along Road B to its intersection with Black Bart Trl; then, starting easterly along Black Bart Trl to its intersection with Kirk Dr; then, starting northeasterly along Kirk Dr to its southwestern most point; then, easterly along an imaginary line to the intersection of Elledge Ranch Rd and State Hwy 20; then, starting northeasterly along State Hwy 20 to its intersection with the Mendocino County line; then, starting southerly along the Mendocino County line to its intersection with an unnamed road at 39.125473 latitude and 123.087225 longitude; then, starting westerly along the unnamed road to its intersection with Mill Creek Rd; then, southwesterly along an imaginary line to its intersection with Twining Rd and an unnamed road at 39.116659 latitude and 123.145359 longitude; then, starting southwesterly along the unnamed road to its intersection with Eastside Rd; then, starting southeasterly along Eastside Rd to its intersection with Morrison Creek; then, southwesterly along Morrison Creek to its intersection with the Russian River; then, starting northwesterly along the Russian River to its intersection with Robinson Creek; then, starting westerly along Robinson Creek to its intersection with Goat Rock Rd; then, northwesterly along Goat Rock Rd to its intersection with State Hwy 253; then, starting southwesterly along State Hwy 253 to its intersection with Robinson Creek Rd; then, starting westerly along Robinson Creek Rd to its intersection with an unnamed road at 39.092138 latitude and 123.265482 longitude; then, starting westerly along the unnamed road to its intersection with Robinson Creek Rd and an unnamed road 39.071998 latitude

and -123.093028 longitude; then, southeasterly along an imaginary line to its intersection with an unnamed road at 39.062193 latitude and -123.133200 longitude; then, starting southerly along said road to its intersection with Eastside Rd; then, starting southeasterly along said road to its intersection with 39.056575 latitude and -123.140939 longitude; then, southwesterly along an imaginary line to its intersection with the southeastern most point of Riverside Dr; then, starting northwesterly along said drive to its intersection with Sanel Dr; then, starting southeasterly along said drive to its intersection with Henry Station Rd; then, southwesterly along said road to its intersection with McNab Ranch Rd; then, starting southwesterly along said road to its intersection with Lane Dr; then, southwesterly along said drive to its intersection with Lakeside Dr; then, starting westerly along said drive to its intersection with Feliz Creek Dr; then, starting northerly along said drive to its intersection with McNab Ranch Rd; then, northwesterly along an imaginary line to its intersection with an unnamed road at 39.050264 latitude and -123.257629 longitude; then, starting westerly along said road to its intersection with an unnamed road at 39.077519 latitude and -123.295229 longitude; then, starting northerly along said road to its intersection with an unnamed road at 39.097088099949 latitude and -123.28159297196 longitude; then, starting southwesterly along the unnamed road to its intersection with Lower Gap Rd; then, starting northwesterly along Lower Gap Rd to its intersection with an unnamed road at 39.163643 latitude and -123.342267 longitude; then, starting northeasterly along the unnamed road to its intersection with Masonite Industrial Rd; then, starting northwesterly along Masonite Industrial Rd to its intersection with Running Springs Ranch Rd; then, starting westerly along Running Springs Ranch Rd to its intersection with Orr Springs Rd; then, starting easterly along Orr Springs Rd to its intersection with Main Ranch Rd; then, starting northwesterly along Main Ranch Rd to its intersection with the beginning of an unnamed road at the intersection of Main Ranch Rd and Find Yer Way; then, starting northeasterly along the unnamed road to its intersection with the southwestern most point of Smith Ln; then, northeasterly along Smith Ln to its intersection with Bell Arbes Dr; then, easterly along Bell Arbes Dr to its

intersection with Uva Dr; then, starting northeasterly along Uva Dr to its intersection with W School Way; then, northeasterly along W School Way to the point of the beginning.

(3) In the County of Merced; in the Snelling area: Beginning at Dry Creek and an unnamed road at 37.523686 latitude and -120.561935 longitude; then, northerly along said road to its intersection with an unnamed road at 37.536270 latitude and -120.561750 longitude; then, westerly along said road to its intersection with an unnamed road at 37.536430 latitude and -120.565428 longitude; then, northerly along said road to its intersection with Keyes Rd; then, starting easterly along said road to its intersection with 37.554113 latitude and -120.545151 longitude; then, northerly along an imaginary line to its intersection with an unnamed creek at 37.571190 latitude and -120.545126 longitude; then, easterly along an imaginary line to its intersection with Olsen Rd at 37.571156 latitude and -120.523103 longitude; then, northeasterly along said road to its intersection with Los Cerritos Rd; then, starting northwesterly along said road to its intersection with the boundary line of Merced County; then, starting northeasterly along said boundary line to its intersection with Robinson Rd; then, southeasterly along an imaginary line to its intersection with Snelling Rd at 37.449752 latitude and -120.431793 longitude; then, starting northeasterly along said road to its intersection with the Main Canal; then, starting southwesterly along said canal to its intersection with 37.448769 latitude and -120.502221 longitude; then, westerly along an imaginary line to its intersection with State Hwy 59 at 37.449058 latitude and -120.502567 longitude; then, starting northeasterly along said highway to its intersection with Youd Rd; then, starting westerly along said road to its intersection with 37.462587 latitude and -120.512041 longitude; then, northerly along an imaginary line to its intersection with the Merced River at 37.469153 latitude and -120.512121 longitude; then, starting northwesterly along said river to its intersection with an unnamed road at 37.471759 latitude and -120.530414 longitude; then, northerly along said road to its intersection with Turlock Rd; then, westerly along said road to its intersection with 37.491592 latitude and -120.548520 longitude; then, northerly along an imaginary line to its intersection with an unnamed road at 37.517116 latitude and -120.548378 longitude; then, westerly along said road to

its intersection with Dry Creek; then, starting northerly along said creek to the point of beginning.

(34) In Napa, Solano and Sonoma counties. Beginning at the intersection of US Hwy 101 and Dry Creek Rd; then, ~~easterly along Dry Creek Rd to its intersection with Healdsburg Ave; then, starting northerly along Healdsburg Ave to its intersection with Passalacqua Rd; then, starting easterly along Passalacqua Rd to its intersection with Foppiano Rd; then, starting southeasterly along Foppiano Rd to its intersection with Deichmann Rd; then, starting northeasterly along Deichmann Rd to its end; then, northeasterly along an imaginary line to its intersection with 38.637175 latitude and -122.826652 longitude; then, southeasterly along the imaginary line to its intersection with the westernmost end of Cook Way; then, starting northerly along Cook Way to its intersection with Chalk Hill Rd; then, starting northerly along Chalk Hill Rd Brack Rd and Chemise Rd; then, starting easterly along Chemise Rd to its intersection with 38.647689 latitude and -122.948557 longitude; then, northeasterly along an imaginary line to its intersection with Jochinsen Rd and Wine Creek Rd; then, northeasterly along Wine Creek Rd to its intersection with Grape Creek; then, starting northeasterly along said creek to its intersection with W Dry Creek Rd; then, starting northeasterly along said road to its intersection with an unnamed road at 38.661056 latitude and -122.940972 longitude; then, northeasterly along said road to its intersection with Dry Creek; then, southeasterly along said creek to its intersection with an unnamed road at 38.659998 latitude and -122.936563 longitude; then, northeasterly along said road to its intersection with Dry Creek Rd; then, northwesterly along said road to its intersection with 38.668829 latitude and -122.932543 longitude; then, northeasterly along an imaginary line to its intersection with Petersen Creek at 38.689261 latitude and -122.902306 longitude; then, starting southeasterly along said creek to its intersection with Geysersville Av; then, southeasterly along said avenue to its intersection with W C Meyer Rd; then, easterly along said road to its intersection with an unnamed road; then, northerly along said road to its intersection with the Russian River; then, starting southeasterly along said river to its intersection with an unnamed road at 38.682033 latitude and -122.853146 longitude; then, northeasterly along said road to its intersection with State Hwy 128; then, southeasterly along said road to its intersection with Geysers Rd; then, starting~~

northeasterly along said road to its intersection with Red Winery Rd; then, starting southeasterly along said road to its intersection with Squibb Rd; then, northeasterly along said road to its northeastern most point; then, southeasterly along an imaginary line to its intersection with Pine Flat Rd and Deer Creek; then, northeasterly along an imaginary line to its intersection with the northwestern most point of Bluegum Creek; then, starting southeasterly along said creek to its intersection with McDonnell Creek; then, starting southeasterly along said creek to its intersection with Maacama Creek then, starting southerly along said creek to its intersection with State Hwy 128; then, starting southnortheasterly along State Hwy 128 to its intersection with Bechaud Rd; then, northeasterly along Bechaud Rd to its northeastern most end; then, northeasterly along an imaginary line to its intersection with the westernmost beginning of Ida Clayton Rd; then, starting easterly along Ida Clayton Rd to its intersection with 38.675388 latitude and -122.656858 longitude; then, southeasterly along an imaginary line to its intersection with Kellogg Creek and the Robert Louis Stevenson State Park boundary line; then, starting northerly along the Robert Louis Stevenson State Park boundary line to its intersection with the Sonoma County boundary line; then, starting southeasterly along the Sonoma County boundary line to its intersection with the Napa County boundary line; then, northeasterly along the Napa County boundary line to its intersection with State Hwy 29; then, starting southerly along State Hwy 29 to its intersection with Livermore Rd; then, southeasterly along an imaginary line to its intersection with the end of Aetna Springs Rd; then, southeasterly along an imaginary line to the westernmost beginning of Summit Lake Dr; then, starting southeasterly along Summit Lake Dr to its intersection with 38.609410 latitude and -122.475560 longitude; then, southeasterly along an imaginary line to its intersection with Ink Grade Dr at 38.602280 latitude and -122.452271 longitude; then, starting southeasterly along Ink Grade Dr to its intersection with Howell Mountain Rd; then, starting northwesterly along Howell Mountain Rd to its intersection with Chiles Pope Valley Rd; then, starting northeasterly along Chiles Pope Valley Rd to its intersection with Maxwell Creek; then, starting northerly along Maxwell Creek to its intersection with Pope Creek; then, starting southeasterly along Pope Creek to its intersection with the Lake Berryessa Recreation Area boundary line; then, starting southerly along the Lake Berryessa Recreation Area boundary line to its intersection with

Steele Canyon Rd at 38.491657 latitude and -122.196591 longitude; then, starting southeasterly along Steele Canyon Rd to its intersection with Lakeshore Dr; then, southwesterly along an imaginary line to its intersection with Capell Valley Rd and 38.455066 latitude and -122.209986 longitude; then, starting southeasterly along Capell Valley Rd to its intersection with Monticello Rd; then, starting southwesterly along Monticello Rd to its intersection with Circle Oaks Dr; then, southeasterly along an imaginary line to its intersection with Blue Ridge Rd and Gates Canyon Rd; then, starting easterly along Gates Canyon Rd to its intersection with Pleasants Valley Rd; then starting southeasterly along Pleasants Valley Rd to its intersection with Foothill Dr; then, starting southeasterly along Foothill Dr to its intersection with Alamo Dr; then, starting southeasterly along Alamo Dr to its intersection with Peabody Rd; then, starting southerly along Peabody Rd to its intersection with Air Base Pkwy; then, starting westerly along Air Base Pkwy to its intersection with ~~Walters Rd; then, southerly along Walters Rd to its intersection with E Tabor Ave; then, easterly along E Tabor Ave to its intersection with Sunset Ave; then, starting southerly along Sunset Ave to its intersection with Grizzly Island Rd; then, starting southerly along Grizzly Island Rd to its intersection with Hill Slough, then, starting northwesterly along Hill Slough to its intersection with Suisun Slough; then, starting southerly along Suisun~~ the boundary of Fairfield City at 38.272382 latitude and -121.975093; then, starting southerly along said boundary to its intersection with Petersen Rd; then, westerly along said road to its intersection with Lawler Ranch Pkwy; then, starting southerly along said parkway to its intersection with State Hwy 12; then, starting southeasterly along said highway to its intersection with Scally Rd; then, southwesterly along an imaginary line to its intersection with Grizzly Island Rd and the northern shoreline of Montezuma Slough; then, starting westerly along said shoreline to its intersection with Grizzly Bay; then, southwesterly along Grizzly Bay to its intersection with western shore of Suisun Bay; then, starting southerly along the western shore of Suisun Bay to the Carquinez Strait; then, starting southwesterly along the Carquinez Strait to San Pablo Bay; then, starting northerly along the shore of San Pablo Bay to the Petaluma River; then, starting northwesterly along the Petaluma River to its intersection with Adobe Creek; then, starting easterly along Adobe Creek to its northernmost end; then, northeasterly along an imaginary line to the southwestern most

point of the Glen Ellen City boundary line; then, northwesterly along an imaginary line to the southernmost end of South Fork Matanzas Creek; then, starting southwesterly along South Fork Matanzas Creek to its intersection with Sonoma Mountain Rd; then, starting westerly along Sonoma Mountain Rd to its intersection with Pressley Rd; then, northwesterly along an imaginary line to its intersection with the southernmost end of Hidden Oaks Rd; then, northwesterly along an imaginary line to its intersection with the southernmost end of Hidden Acres Rd; then, northerly along Hidden Acres Rd to its intersection with Hidden Springs Rd; then, starting northwesterly along Hidden Springs Rd to its intersection with Peracca Rd; then, westerly along Peracca Rd to its intersection with Grange Rd; then, starting northerly along Grange Rd to its intersection with Matanzas Creek; then, starting westerly along Matanzas Creek to its intersection with Bennett Valley Rd; then, starting northwesterly along Bennett Valley Rd to its intersection with Yulupa Ave; then, starting northwesterly along Yulupa Ave to its intersection with Bethards Dr; then, starting northeasterly along Bethards Dr to its intersection with Summerfield Rd; then, starting northerly along Summerfield Rd to its intersection with Montgomery Dr; then, northeasterly along Montgomery Dr to its intersection with Mission Blvd; then, starting northwesterly along Mission Blvd to its intersection with Montecito Blvd; then, starting southwesterly along Montecito Blvd to its intersection with Fountain Grove Pkwy; then, starting northwesterly along Fountain Grove Pkwy to its intersection with Industrial Dr; then, starting westerly along Industrial Dr to its intersection with Cleveland Ave; then, starting southeasterly along Cleveland Ave to its intersection with Piner Rd; then, starting westerly along Piner Rd to its intersection with Olivet Rd; then, northerly along Olivet Rd to its intersection with W Olivet Rd; then, westerly along W Olivet Rd to its intersection with Oakwild Ln; then, northerly along Oakwild Ln to its intersection with Denner Ranch Rd; then, westerly along Denner Ranch Rd to its intersection with Denner Rd; then, starting northerly along Denner Rd to its intersection with River Rd; then, starting westerly along River Rd to its intersection with McPeak Rd; then, starting northwesterly along McPeak Rd to its intersection with Sunnyside Dr; then, northeasterly along an imaginary line to its intersection with Mount Jackson Resort Rd at 38.538271 latitude and -122.941874 longitude; then, starting southwesterly along Mount Jackson Resort Rd to its intersection

with Sweetwater Springs Rd; then, starting northwesterly along Sweetwater Springs Rd to its intersection with McCray Ridge Rd; then, northeasterly along an imaginary line to its intersection with Cloud 8 Rd and Palmer Creek Rd; then, starting northeasterly along Palmer Creek Rd to its intersection with Mill Creek Rd; then, starting ~~northeasterly~~westerly along Mill Creek Rd to its intersection with Puccioni Rd; then, starting northwesterly along Puccioni Rd to its intersection with 38.600325 latitude and 122.935946 longitude; then, ~~northeasterly~~ along an imaginary line to its intersection with Wallace Creek Rd and Chicken Ridge Rd; then, starting northeasterly along Chicken Ridge Rd to its intersection with Big Ridge Rd; then, northwesterly along an imaginary line to its intersection with an unnamed creek at 38.621612 latitude and 122.919456 longitude; then, starting southeasterly along the unnamed creek to its intersection with 38.620320 latitude and 122.906202 longitude; then, northeasterly along an imaginary line to its intersection with W Dry Creek Rd at 38.624313 latitude and 122.897724 longitude; then, northeasterly along an imaginary line to its intersection with Dry Creek at 38.625808 latitude and 122.895523 longitude; then, southeasterly along Dry Creek to the southwestern most end of Provence Ln; then, northeasterly along Provence Ln to its intersection with Dry Creek Rd; then, southeasterly along Dry Creek Rd to its intersection with Pozzan Rd; then, northerly along Pozzan Rd to its intersection with 38.629385 latitude and 122.883128 longitude; then, easterly along an imaginary line to its intersection with US Hwy 101 at 38.629438 latitude and 122.878028 longitude; then, southerly along US Hwy 101 Soward Ranch Rd; then, ~~northerly~~ along an imaginary line to the point of the beginning.

(c) [no change]

(d) [no change]

Note: Authority: Sections 407 and 5322, Food and Agricultural Code

Reference: Sections 407, 5322, 5761, 5762 and 5763, Food and Agricultural Code

May 19, 2010

FINDING OF EMERGENCY

Readoption

The Secretary of the Department of Food and Agriculture has determined that an emergency exists due to the existence of *Lobesia botrana*, European Grapevine Moth (EGVM), in the counties of Fresno, Mendocino, Merced, Napa, Solano and Sonoma.

Emergency Rulemaking Procedures

“Emergency’ means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare,” Government Code Section 11342.545. If a state agency makes a finding that the adoption of a regulation is necessary to address an emergency, the regulation may be adopted as an emergency regulation. Government Code Section 11346.1(b)(1).

In this document the Department is providing the necessary specific facts demonstrating the existence of an emergency and the need for immediate action to prevent serious harm to the general welfare of the citizens of California, pursuant to Government Code Section 11346.1(b)(2).

The information contained within this finding of emergency also meets the requirements of Government Code Sections 11346.1 and 11346.5.

“Specific actions necessary to prevent or mitigate an emergency” are exempt from the California Environmental Quality Act (CEQA). Public Resources Code Section 21080(b)(4). “Emergency’ means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.” Public Resources Code Section 21060.3.

Evidence of Emergency

Due to multiple finds of EGVM, the Department expanded the regulated areas in Napa, Solano and Sonoma and created new regulated areas in Fresno and Mendocino by amending Section 3437, Title 3, California Code of Regulations (3CCR) as an emergency action, effective May 13, 2010 (Office Of Administrative Law (OAL) File No. 2010-0506-06); and expanded the regulated areas in Mendocino, Solano and Sonoma counties and established a new regulated area in Merced County as an emergency action effective June 1, 2010 (OAL File No. 2010-0520-02E).

The EGVM poses a clear and imminent danger to California's agricultural industry. Should the Department not continue these emergency actions by completing the regular noticed rulemaking action within 180 days of their respective effective dates, the emergency regulations would be repealed by operation of law. This could allow the EGVM to cause catastrophic losses to, not only California's table and wine-grape industries, but the industries which rely on the regions' scenic beauty and international reputation as a tourist destination.

Necessity for Readoption

In order to meet the 180-day deadline, the Certificates of Compliance for these two emergency actions would be due to OAL by November 9 and November 28, 2010, respectively. In order to meet those dates, the Department would have had to file "Notice" packages by September 7 for the earlier emergency action, and September 28 for the latter. However, the Department is still in the process of collecting the required economic impact information prior to submitting the Notice. Due to the large number of businesses affected by these regulations, collecting this information is a lengthy process. The Department expects to have this information collected and file the Notice packages no later than November 2, 2010.

The specific facts and information relied upon which originally established these emergency actions have not changed and the emergency still exists. Therefore, the Department is proposing

to incorporate by reference and readopt OAL File Nos. 2010-0506-06E and 2010-0520-02E to avoid severe economic losses to agriculture and losses in the State's revenue.

The Secretary amended this regulation pursuant to the authority in Food and Agricultural Code (FAC) Section 407, "the director may adopt such regulations as are reasonably necessary to carry out the provisions of this code which he is directed or authorized to administer or enforce," and FAC Section 5322, "the director may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in his or her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC Section 5321."

Additionally, FAC Section 401.5 states, "the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state" and Section 403 states, "the department shall prevent the spread of injurious insect pests."

Under Section 14.5 of the State of California Emergency Plan, dated July 1, 2009, the Department is responsible for coordinating integrated federal, state and local preparedness for response to, recovery from and mitigation of plant diseases and pests and overseeing the control and eradication of outbreaks of harmful or economically significant plant pests and diseases. The Department is also charged with leading the administration of programs to detect, control and eradicate pests affecting plants.

Additionally, the USDA cannot regulate less than the entire State unless the State has a quarantine regulation which is substantially the same as what the federal quarantine requirements are or will be. Should USDA quarantine all of California, it would have serious repercussions on our ability to export any EGVM host material to other states or countries. For instance, both Canada and Mexico are major trading partners with California. Canada has already prohibited the

importation of grapes and olives, and placed restrictions on stonefruit, kiwi, persimmon, pomegranate and berries from EGVM areas in California. Mexico has prohibited the importation of any host material from EGVM counties. Therefore, it is necessary to amend this regulation as an emergency action.

EGVM are found in southern Asia, Europe, North Africa, Anatolia, the Caucasus and in South America (Chile where it was first identified in 2008). Adult EGVM are 6 to 8 mm long with a wingspan of about 10 to 13 mm. However, their size is greatly affected by larval food quality. The first flight of adults occurs in spring when daily average air temperature is above a minimal threshold temperature of 10°C for 10 to 13 days. High temperature (over 20°C) and low humidity (40-70% relative humidity) provide optimal conditions for moth activity. The second flight period begins in summer. Adults may be hard to discover during the day and may be noticed only when they take flight after being disturbed. Within a day or two of mating, females begin to oviposit on the blossoms, leaves, and tender twigs of grapevines. The female lays 300 or more eggs at a rate of 35 per day. First generation eggs are laid on the flower buds or pedicels of the vine while second generation eggs are laid on individual grapes. Eggs hatch in seven to eleven days in spring and three to five days in summer.

The number of generations in a given area is fixed by photoperiod together with temperature. The moth achieves two generations in northern cold areas and usually three generations in southern temperate areas, but as many as five generations have been reported.

First generation larvae feed on bud clusters or flowers and spin webbing around them before pupating inside the web or under a rolled leaf. If heavy flower damage occurs during the first moth generation, the affected flowers will fail to develop and yield will be low. Second generation larvae enter the grapes and feed before pupating inside the grape. Larvae of the third generation, the most damaging, feed on ripening grapes, migrating from one to another and spinning webs. When berries are a little desiccated, the larvae penetrate them, bore into the pulp,

and remain protected by the berry peel. Larvae secure the pierced berries to surrounding ones by silk threads in order to avoid falling. Each larva directly damages several berries (one to six), but if the conditions are suitable for fungal or acid rot development, a large number of surrounding berries may also be affected. The third generation larvae leave the fruit and seek shelter under the bark, among dead leaves, or between clods of earth, where they pupate before overwintering. Larvae develop in four to five weeks in spring and two to three weeks in summer. Pupation lasts nine to twelve weeks in spring, five to seven days in summer, and up to six months in winter.

The EGVM is a serious pest in warm vine-growing countries. Damage by EGVM makes berries attractive to other insects and predisposes the fruit to fungal infection. Larval boring may promote a number of fungal rots, including *Aspergillus*, *Alternaria*, *Rhizopus*, *Cladosporium*, *Penicillium* and especially, grey rot caused by *Botrytis cinerea*. Loss of up to one-third of the vintage has been reported in areas of the Soviet Union, Syria and Yugoslavia. Losses in Israel sometimes reach 40 to 50 percent among table grapes and up to 80 percent for wine grapes. Further loss is due to the time and labor spent in cleaning the grape bunches. When infestations are heavy, work days spent in cleaning the fruit account for 30 to 40 percent of the time of those involved in harvesting.

Losses in grapes produced for raisins and table grapes are expected to be higher than for wine grapes. Additionally, fresh table grapes will likely face restrictions imposed by some trading partners.

California's 844,000 acres of grapes (526,000 acres of wine grapes, 93,000 acres of table grapes and 225,000 acres of raisin-type grapes) leads the nation in grape production with 89% of the total. In 2007, grapes were the number two commodity in the state, based on a dollar value of \$3.08 billion dollars, and were among the top three commodities produced in 15 California counties. The retail value of California was valued at \$16.5 billion in 2006. Additionally, EGVM is known to feed on close relatives of plants listed as threatened or endangered in the United

States and presents a potential threat to perhaps 24 species, some of which are known to occur only in California. To protect this source of revenue and the environment, California must do everything possible to prevent the spread of EGVM in the State.

Project Description

These emergency actions expanded and/or created new quarantine areas for EGVM. The effect of these amendments to the regulations was to establish authority for the State to perform quarantine activities against EGVM in these additional quarantine areas.

As in all quarantine activities, the intended effect of this quarantine is to prevent the human-assisted artificial spread of the pest. Artificial spread, such as moths hitchhiking on equipment, clothing or the movement of infested plant material has the potential to spread the pest rapidly throughout the state, whereas the natural spread of the pest is gradual.

Any quarantine actions undertaken by the Department will be in cooperation and coordination with the USDA and the affected county agricultural commissioners. It is immediately necessary to continue to implement quarantine actions in order to prevent the artificial spread of EGVM to the noninfested areas of California.

The Department relied upon, and is incorporating by reference, the following documents for this proposed rulemaking action:

OAL File No. 2010-0506-06E

OAL File No. 2010-0520-02E

Authority and Reference Citations

Authority: Sections 407 and 5322, Food and Agricultural Code.

Reference: Sections 407 and 5322, Food and Agricultural Code.

Informative Digest

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322).

Section 3437. European Grapevine Moth Interior Quarantine.

The emergency regulatory action, effective May 13, 2010, expanded the existing regulated quarantine areas for the EGVM in Napa, Solano and Sonoma counties by approximately 827 miles, and created new regulated quarantine areas in Fresno County of approximately 96 square miles and in Mendocino County of approximately 140 square miles, for a total of approximately 1,395 square miles.

The emergency regulatory action, effective June 1, 2010, expanded the regulated areas in Napa, Solano and Sonoma counties by approximately 74 square miles, in Mendocino by approximately 39 square miles and established a new quarantine of approximately 108 square miles in Merced County, for a total of approximately 1,616 square miles.

The effect of these changes to the regulations was to establish authority for the State to perform quarantine activities against EGVM in these additional quarantine areas.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3437 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a

county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the Fresno, Mendocino, Napa, Solano and Sonoma County Agricultural Commissioners requested that these changes to the regulation be made.

Cost Estimate

The Department has also determined that the regulations will involve no additional costs or savings to any state agency because initial funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code and no costs or savings in federal funding to the State.